IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

Tr.P(Crl.).No. 17 of 2007()

AGAINST THE ORDER IN LP 45/2005 IN
CC.978/2002 of J.M.F.C.,PALA

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PETITIONER: COMPLAINANT:

MALABAR CHIT FUNDS (PVT.)LTD.,
3RD FLOOR, JAYANTHI BUILDINGS, CALICUT,
REPRESENTED BY P. SATHER,
MANAGING DIRECTOR.

BY ADV. SRI.A.AHZAR

RESPONDENTS: STATE & ACCUSED:

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1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. RADHAKRISHNAN, AGED 47 YEARS,
S/O.CHANDUKUTTY, PROPRIETOR,
MALLISSERY AYURVEDICS, NEAR POST OFFICE,
ERANJIPALAM, CALICUT, RESIDING AT
MALLISSERY HOUSE, VENGERI, CALICUT DISTRICT.

R1 BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 22/02/2007, ALONG WITH TPCR NO. 9 OF 2007 AND OTHER CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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Tr.P.(C)NO.17 OF 2007

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Dated this the 12th day of February 2007

ORDER

The petitioner who is the respondent in O.P.No.627/2006 on the file of the Family Court, Thiruvalla is the petitioner. He has sought for transfer of the case from Family Court, Thiruvalla to any other Family Court. The main reasons alleged for transfer of the case are contained in paragraphs 6 and 7 of the petition:

> "The learned judge directed to produce the child on 28.12.2006. On 28.12.2006 the petitioner was present along with the child. The learned judge asked the child to go with the respondent. The child was not willing to go with the respondent. Thereafter the parties were brought inside the chamber and the learned judge insisted the child angrily that she must go. The child started crying. The police constable present in the court caught the hands of the child forcibly and compelled her to go with the respondent. Afraid by this the child cried loudly and she was taken forcibly by the respondent with the help of the police constable and her relatives by dragging her through the floor. The petitioner also started weeping. Interestingly apart from the verbal direction no order has been passed granting the interim custody. The case was adjourned to the next day.

> The next day that is on 29.12.2006 the things happened in the previous day were repeated. On that day also the child expressed her wish to go with her father. At last she was forcibly taken by the respondent. On that day also no order was passed. The learned judge shouted to the petitioner to 'go and commit suicide' and the learned judge asked the petitioner 'you got married?' (. . . . .) The learned judge scolded the petitioner in the presence of the young child. Then the case was adjourned on 1.1.2007. On 1.1.2007 custody of the child was given to the petitioner. Even then the learned family court judge mentally harassed the petitioner in the presence of the little child and the case is adjourned to 12.1.2007."

In view of the above allegations when the matter came up before another Judge he was of the view that the report of the Family Court Judge has to be obtained. Accordingly, remarks of the Family Court Judge was obtained. She has reported that interim orders directing custody of the child to the respondent was passed and it is not without passing any order that the custody was given to the respondent. The wanton allegations

made by the petitioner against the Judge concerned has been denied by her. On going through the allegations and the remarks obtained from the officer concerned, I am convinced that the attempt of the petitioner is to get the case transferred to some other Family Court for the mere reason that the Family Court Judge had ordered interim custody being given to the respondent/mother which was not liked by the petitioner. Such attempts to get the court changed cannot be entertained. There is absolutely no reason why the case is to be transferred from the Family Court, Thiruvalla to any other court. This transfer petition is dismissed.

K.P.BALACHANDRAN, JUDGE

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